February 2, 2009

Mr. Ian Peterson
Governor's Office of Planning and Research
P.O. Box 3022
Sacramento, CA 95812-3044

Subject: Comments on the Preliminary Draft CEQA Guidelines Amendments for Greenhouse Gas Emissions

Dear Mr. Peterson:

Thank you for the opportunity to comment on the January 8, 2009 preliminary draft amendments to the State CEQA Guidelines. We appreciate the work done by OPR and the Natural Resources Agency in preparing these proposed amendments. We have reviewed the preliminary proposal and have a number of comments. Please take them in the spirit of constructive criticism. We realize that it is much easier to critique than to create.

Although issuing guidance with greater specificity would be ideal, we recognize that OPR and the Natural Resources Agency are constrained by the limits of their authority under Public Resources Code Section 21084. It is always preferable to provide solid, defensible Guidelines than reaching too far in an attempt to satisfy those who want very specific guidance where none is reasonably supportable.

The undersigned are all ICF Jones & Stokes employees, which is one of California's foremost environmental firms. Our founders helped to write CEQA in 1970, and since that time we have worked on CEQA analyses for thousands of projects, large and small. Although this letter reflects the experience we have gained at ICF Jones & Stokes, this letter does not necessarily reflect the views of ICF Jones & Stokes or any of its clients. It is being submitted under the names of the signed authors as private citizens with particular experience and insight in CEQA practice.

The undersigned have a strong commitment to successful CEQA compliance, as illustrated by our publications, such as the *CEQA Deskbook*, and the classes we teach every year through University of California Extension and in other venues. In addition to our involvement in CEQA implementation, we have a particular interest in the evaluation of GHG emissions and climate change impacts. In our employment at ICF Jones & Stokes, we have taken a leading role in helping various federal, state and local agencies to develop GHG methodologies and approaches to climate change impacts.

I. General Comments

Significance Threshold

First, we would like to applaud OPR and the Natural Resources Agency for exercising caution in its approach to any explicit threshold of significance for greenhouse gas (GHG) emissions. We are concerned about challenges to potential thresholds as a *de minimis* approach under the fair argument principle. We are not necessarily saying that statewide thresholds for GHG emissions represent a flawed policy approach. Rather, we believe that the existing statute and the holding in *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98 complicate the ability to establish an explicit threshold.

The key challenge here is a statutory one. CEQA and AB 32 have different objectives that are currently not reconciled in the law. Complicating the problem of properly addressing GHG emissions in CEQA documents is the fact that CEQA and AB 32, although both aimed at addressing environmental concerns, differ significantly in their construction and authority. CEQA is designed in part to preserve existing environmental quality and mitigate the impacts of a given project, but cannot be used as a vehicle to force projects to remedy existing environmental problems. AB 32 is focused on reducing existing and future GHG emissions to 1990 levels by 2020 through statewide programs and regulations.

If taken from a strict approach to CEQA, the methodology for environmental analysis under CEQA allows for little tolerance for new contributions to GHG emissions. CEQA requires public agencies to evaluate the significance of the contributions of individual projects to a cumulative impact when the contribution is found to be considerable. Using CEQA's traditional approach to global climate change as a cumulative impact, it would seem that almost any contribution above baseline would be a considerable contribution to this cumulative impact, with very little flexibility for allowing anything less than a conclusion that the specific project's cumulative impact is significant and unavoidable. AB 32, on the other hand, is not concerned with an individual project's contributions as long as the project complies with its comprehensive programs and regulations. Compliance and consistency with the programs and regulations, many of which we can assume will apply to projects that are also subject to CEQA, will enable the State to meet the target level of emissions by 2020.

Given that AB 32 will establish a comprehensive set of programs and regulations to reduce overall emissions, and assuming that implementation of AB 32 will successfully reduce emissions by 2020, a reasonable approach to address GHG emissions in CEQA

would be to use the CEQA process to ensure that projects that would not obstruct compliance with AB 32-based programs and regulations. To achieve this goal, we suggest that the Administration support *legislation*[1] that would link CEQA to AB 32's objectives and provide statutory authority to allow exemptions to apply to development that would otherwise conform to the AB 32 programs and regulations. The legislation should also provide a means of determining when mitigation is sufficient to allow adoption of a mitigated Negative Declaration, rebutting the fair argument standard, and also possibly utilizing a categorical exemption without triggering the exemptions outlines in Section 15300.2 of the CEQA Guidelines.

CEQA's role should be to ensure that projects that would not otherwise be controlled by AB 32-based programs and regulations are subject to analysis and mitigation; and CEQA's role should not be to penalize projects with truly minor impacts to endure additional CEQA documentation and process where it does fit within the AB 32 program. Otherwise, we risk enormous inefficiencies in CEQA processing for minor projects that will conform to AB 32 requirements without measurable gain in GHG reductions.

Despite these formidable challenges to establishment of thresholds, we are of the opinion that GHG CEQA non-zero thresholds *can* be established at the state, regional or local level. The CAPCOA white paper "CEQA and Climate Change" outlined a wide range of options and considerations for the potential identification of non-zero thresholds. However, in order to establish a valid project-level threshold for this cumulative impact, we believe that quantitative analysis of potential future GHG emission scenarios applying the suggested threshold(s) will need to be done. This analysis could be used to demonstrate that implementation of AB-32 mandatory measures AND any regional or local mandatory measures adopted pursuant to RTPs, General Plans, or climate action plans AND application of the threshold for discretionary new development would result in overall local, regional, or state emissions that meet the macro level goals for GHG emissions. With that evidence in hand, we believe that a state, regional, or local lead agency could establish a CEQA GHG emissions significance threshold without falling into the *de minimis* "trap" represented in the *Communities for a Better Environment v. California Resources Agency* decision[2].

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[1] As the Natural Resources Agency was reminded in the CBE case, changes to the CEQA Guidelines cannot extend CEQA practice beyond what legislature intended in the CEQA statute. Therefore, administrative changes to the CEQA Guidelines may not be sufficient to alter legal compliance with CEQA in a way to allow "compliance with the AB 32 program" as mitigation measure to presumptively reduce the cumulative significant impact related to climate change to a less-than-significant level without specific authority in the CEQA statute.

[2] (Oct. 28, 2002. As Modified Nov. 21, 2002.) 126 Cal. Rptr. 2d. 441

Adaptation

One important aspect of the impacts of global climate change is not specifically addressed from the preliminary proposal; there is no specific reference to the impacts related to adaptation. The concern related to adaptation is that the proposed project, would be affected negatively by the future environmental conditions caused by climate change. This would be a golden opportunity to explain that CEQA analysis must address whether new development would be adversely affected by the inevitable physical changes from global warming (sea level, weather patterns, changing water supply, etc.), to the extent that information is reasonably available. Our suggested revision is included under the discussion of Section 15064.4 below.

Linking Compliance with Adopted Enforceable Plans

We believe that, considering the limitations imposed by statute and case law, this proposal is generally on the right track (with the exceptions noted below) with regards to how to address GHGs under CEQA. In particular, linking compliance with adopted, enforceable plans (like climate action plans) and AB32 to the mitigation of individual project contributions is very helpful. This is in keeping with the current approach in Guidelines Sections 15064 and 15130 of avoiding "considerable" contributions to cumulative impacts through compliance with programs intended to mitigate the cumulative impact. Although this is not new, it is worth highlighting.

Other General Comments

We suggest that the following additional areas are worth addressing in the proposed Guidelines amendments. We defer to OPR to consider where these might best be addressed.

- Baseline for GHG analysis. It would be helpful if the Guidelines specified that 1990 should not be used as the baseline for determining the significance of the proposed project's impacts. The baseline for GHG analysis should be the same as for any cumulative impact.

- Double counting. An advisory would be helpful, perhaps in Sections 15064/15064.4 and 15130, cautioning against double counting GHG emissions reductions, especially across sectors. For example, project types that reduce emissions through a cap-and-trade system should not be eligible to create offsets because the result would be a double counting of the emission reduction.

- Section 15064(h)(3). The State should consider preparing a program EIR when adopting the regulations to implement AB 32 scoping plan to allow for tiering in a way to minimize the focus on individual cumulative impact contributions, where appropriate.

- Co-benefits. We suggest adding policy statements related to the co-benefits of GHG mitigation measures relative to energy conservation, water conservation, reduction in fuel consumption, etc. Identifying co-benefits shows that mitigation measures have more than one purpose and can help build support for the measures.

- Life cycle emissions. It would be helpful if the Guidelines included clarification as to whether a CEQA analysis must consider "life cycle emissions" (e.g., related to market stream issues of construction materials, deliveries, etc.), . The statement could point to the CEQA Guidelines' limitation on speculation to suggest that certain life cycle emissions need not be analyzed. However, in areas where lifecycle emissions are so well understood, such as those related to concrete manufacture or the embodied emissions of water pumping, lifecycle emissions should be included.
- Fuel and energy consumption. The increased consumption fuel and energy has been used as a surrogate for the determination of whether a project could result in increased GHG emissions. This approach does not take into account any benefits to carbon sequestration or reductions inherent to a project. It would be more realistic to instead focus on a more meaningful indicator, such a project's net CO_2eemissions, which would then take into account carbon emitted and sequestered by a project and reflecting the true impacts to climate change a project may have.
- Statement of Overriding Considerations. The revision to Section 15093, Statement of Overriding Considerations indicates that agency may consider local adverse environmental effects in the context of region-wide or statewide benefits. However, as OPR believes the unique nature of greenhouse gas emissions warrants investigation of a statewide threshold of significance for greenhouse gas emissions, this appears to contradict the assertion that climate change is more appropriately evaluated on a broader region-wide basis. Consequently, clarification or additional guidance should be given the revision to Section 15093. It is unclear how a project can be determined to have an adverse local environmental effect and a region-wide or statewide benefits should not be classified as having local adverse impacts, as the focus of OPR's guidance seems to focus on a region-wide or consistency approach.

II. Specific Comments

Following is our critique of aspects of the preliminary draft. Where possible, we offer suggestions for changes that we believe would improve the proposed Guidelines. In our suggestions below, the revisions proposed by OPR are highlighted in red, including any stricken language, and our suggested additions are underlined.

Section 15064: "Regional blueprint plans" are cited as examples of plans that should be considered during analysis or can be relied upon for cumulative impact analysis (including as a mitigation program in Section 15064(h)[3], for example). However, unlike the other sorts of plans that are named, these carry no authority and not enforceable. Nor has any regional blueprint ever been the subject of an EIR. While they are energizing exercises in regional planning, they aren't programs that offer enforceable mitigation. Therefore, we recommend that you delete regional blueprint plans from the draft amendment.

Unfortunately, the proposed revisions to Section 15064 fail to offer any new guidance on how to address GHG emissions as cumulative impacts. By saying nothing, and adding a new Section 15064.4 to address GHG impacts, the Guidelines could be interpreted to mean that the GHG emissions of individual projects are something more than cumulative contributions. We don't think that's the intent. We suggest either adding the text of Section 15064.4 to Section 15064 or providing a cross reference between the two sections.

Continuing on the topic of Section 15064, the Guidelines do not currently discuss how the consideration of good design and existing regulations may play a part in determining whether an impact is significant. This is an important part of CEQA practice that has been overlooked. It will be particularly important to GHG emissions reductions as innovative designs become more common and the number and breadth of applicability of regulations expands. We suggest the following revisions to Section 15064. We also suggest changes to Section 15124.6 later on.

> 15064. Determining the Significance of the Environmental Effects Caused by a Project
> (a) …
>
> (b) The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. Considerations may

include, but are not limited to, the extent to which the project's compliance with existing regulations would reduce its impacts, and the extent to which the project's design or other features would reduce its impacts. An ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area.

(c) …

(h)… (3) A lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program (e.g., water quality control plan, air quality attainment or maintenance plan, integrated waste management plan, city or county general plan or specific plan, regional housing allocation plan, habitat conservation plan, natural community conservation plan, climate action plan, regional transportation plan, ~~regional blueprint plan~~, ~~sustainable community strategy.~~ statewide plan of mitigation for greenhouse gas emissions) ~~which~~that provides specific, fully enforceable requirements that will avoid or substantially lessen the cumulative problem ~~(e.g., water quality control plan, air quality plan, integrated waste management plan)~~ within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding that the project complies with the specified plan or mitigation program addressing the cumulative problem, an EIR must be prepared for the project.

(4)…

Section 15064.4: Proposed new Section 15064.4 provides guidance for determining the significance of GHG emissions. This section leaves little doubt that GHG emissions must be considered as environmental impacts under CEQA. However, it could be improved with a few changes. First, the section should specify that GHG emissions make a contribution to cumulative impacts, or otherwise link the discussion to Section 15064.

Second, the section should specifically include, under subdivision (a), a statement to the effect that an increase in VMT must also be considered (suggested language follows). Section 15064.4 proposes to include consideration of whether the project exceeds "any threshold of significance that applies to the project" – we suggest remaining silent on that point since there are no defensible thresholds at this time.

15064.4. Determining the Significance of Impacts from ~~Greenhouse Gas Emissions~~Climate Change

(a) Global climate change is a significant cumulative impact. A lead agency should consider the following, where applicable, in assessing the significance of impacts from global climate change~~greenhouse gas emissions~~, if any, on the environment:

(1) The extent to which the project could help or hinder attainment of the state's goals of reducing greenhouse gas emissions to 1990 levels by the year 2020 as stated in the Global Warming Solutions Act of 2006. A project may be considered to help attainment of the state's goals by being consistent with an adopted statewide 2020 greenhouse gas emissions limit or the plans, programs, and regulations adopted to implement the Global Warming Solutions Act of 2006;

(2) The extent to which the project may increase the consumption of fuels or other energy resources, especially fossil fuels that contribute to greenhouse gas emissions when consumed;

(3) A project's overall net increase in carbon dioxide equivalent emissions;

(~~4~~) The extent to which the project may result in increased energy efficiency of and a reduction in overall greenhouse gas emissions from an existing facility;

(~~5~~) The extent to which the project ~~impacts or emissions exceed any threshold of significance that applies to the project.~~would increase or decrease vehicle miles travelled within the study area from existing levels; and

(6) The extent to which global climate change, as manifested in future environmental changes including, but not limited to, sea level rise, changes in precipitation, and changes in water supply, may affect the project. This analysis is to be based on information that is reasonably available and is subject to the considerations in Sections 15144 and 15145 regarding forecasting and speculation, respectively.

(b) Where a project would not fall within the provisions of Section 15064(h)(3), a ~~A~~ lead agency should make a good-faith effort, based on available information, to describe, calculate or estimate the amount of greenhouse gas emissions associated with a project, including emissions associated with energy consumption and vehicular traffic. Because the methodologies for performing this assessment are anticipated to evolve over time, a lead agency shall have discretion to determine, in the context of a particular project, whether to:

(1)…

(c) The baseline for analyzing the project's contribution relative to existing conditions will be as described in Section 15125.

Section 15125: The proposed subdivision (d) is inconsistent with the legislative intent of SB 375 by creating a backdoor mandate to amend general plans in conformity with a Sustainable Community Strategy. We recommend deleting that proposed amendment. Government Code Section 65080(b)(1)(J) states: "*Nothing in this section shall require a city's or county's land use policies and regulations, including its general plan, to be consistent with the regional transportation plan or an alternative planning strategy.*" The SCS required under SB 375 will be a part of the Regional Transportation Plan (RTP). While statute specifies that a general plan is not required to be consistent with an SCS, OPR's proposal would imply that there is a significant impact if a general plan is not consistent with an RTP/SCS. If consistency is not required, then why would inconsistency by significant? Because CEQA requires adoption of feasible mitigation, Section 15125(d) would force local jurisdictions to either amend their general plan or make a statement of override if it is not fully consistent with an RTP/SCS.

Section 15126.4: The provision for carbon offset purchases in subdivision (c)(5) is too broad. Requiring them to be part of a "reasonable plan of mitigation" is not enough. The section should further define the requirements for a reasonable plan of mitigation, including such factors as duration, verification, and enforceability. It should also be mentioned that most GHG reduction efforts also have environmental co-benefits. If GHG mitigation is allowed outside of the project area through certain types of carbon offset programs, the immediate environmental co-benefits may be lost. We suggest the following revised language:

(c) Mitigation Measures Related to Greenhouse Gas Emissions

(1) Lead agencies ~~should~~ must consider ~~all~~ feasible means of mitigating greenhouse gas emissions including but not limited to reducing emissions associated with the project's energy consumption, including fossil fuel consumption, and water consumption. All mitigation measures must be feasible and fully enforceable, as supported by substantial evidence.

(2) Mitigation measures may include revisions to project features, project design, or other measures ~~which~~ that are incorporated into the project to substantially reduce energy consumption or greenhouse gas emissions. Mitigation measures may include actions that would reduce energy consumption or greenhouse gas

emissions through the retrofit of existing buildings or permanent changes to existing operations.

(3) Mitigation measures may include, where relevant, compliance with the requirements in a previously approved plan or mitigation program for the reduction or sequestration of greenhouse gas emissions, which plan or program provides specific requirements that will avoid or substantially lessen the potential impacts of the project.

(4) Mitigation measures may include measures that sequester carbon or carbon-equivalent emissions, where the sequestration will be in perpetuity.

(5) Where mitigation measures are proposed for reduction of greenhouse gas emissions through ~~off-site measures or~~ purchase of carbon offsets, these ~~mitigation measures~~ offsets must be part of ~~a reasonable plan of mitigation~~ an established program, certified by an appropriate branch of the California or Federal government, that will implement ~~the relevant agency commits itself to implementing~~ the offsets in perpetuity. Offsets should only be considered when onsite mitigation is infeasible. Health and Safety Code Section 38501 (h) states that the intent of the Legislature is that GHG reduction efforts maximize the additional environmental and economic co-benefits for California. As such, GHG mitigation offsets must result in California co-benefits until such a time when all GHG mitigation offsets in California are exhausted.

Section 15130: This section describes how cumulative impacts are to be discussed in an EIR. The specific recognition in Section 15130(b)(1)(B) of the use of "a regional computer modeling program" for cumulative impact analysis is a welcome addition to the Guidelines. This is already common practice, particularly for traffic impact analysis.

Climate change is a global concern and is the result of emissions from around the globe. Subdivision 15130(b)(2) should be further amended to specify that the list approach is unsuitable for use when analyzing the significance of GHG emissions. We suggest the following language:

(b)…
(2) When utilizing a list, as suggested in paragraph (1) of subdivision (b), factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of

traffic. Because climate change is a global effect, a list is not suitable for the analysis of the cumulative impact of climate change.

Section 15152: The proposed revisions to subdivision (i) can be interpreted to be contrary to the decision in *Communities for a Better Environment, supra*, which invalidated the prior Guideline provision limiting the need to prepare a second-tier EIR when significant unavoidable impacts were disclosed in the first-tier EIR. We recommend revising proposed new subdivision (i) to read as follows:

(i) ~~Project level CEQA documents~~A project-level EIR need not provide additional project-level greenhouse gas emissions analysis or mitigation measures, if the proposed project is consistent with an applicable regional or local plan that adequately addresses greenhouse gas emissions, and the plan is one for which an EIR has previously been certified. (See also section 15183.)

Section 15168: The preliminary proposal does not include any revisions to this section on program EIRs. We suggest that in addition to the revisions proposed to Section 15183 (Projects Consistent with a Community Plan or Zoning), you include a similar revision to Section 15168. Here is our suggested language:

15168(b)…

(2) Ensure consideration of cumulative impacts, including greenhouse gas emissions, that might be slighted in a case-by-case analysis,

(3)…

(6): Provide a means to mitigate the greenhouse gas emissions of the project for which the Program EIR was certified.

Appendix F (Energy Conservation):

This appendix has long been problematic, because there is no consensus determination of what is a "wasteful," "inefficient" or "unnecessary" use of energy. Merriam-Webster's Online Dictionary defines them as "given to or marked by waste," "wasteful of time or energy," and "not necessary," respectively. Where the line lies between energy wastefulness and an acceptable level of energy use has not been defined. Without an acceptable definition, the Appendix may be applied inequitably. A project that complies with all current energy standards should not be subject to Appendix F.

Appendix F dates back to the day decades ago when California was just beginning to address energy conservation. Given the improvements to Title 24, the Long-Term Energy-Efficiency Strategic Plan (EESP) of the CEC, and additional regulations coming

out of the Scoping Plan, we think that Appendix F is outdated and in need of substantial revisions. We think a very compelling argument can be made that: (1) vehicles that are legal under both CA and federal regulations; and (2) buildings that are built to meet current Title 24 codes use energy at a normal rate and are neither "wasteful," "inefficient," nor "unnecessary."

Also analysis of energy use itself does not get you to the actual physical impact. It's the air pollution, the greenhouse gas emissions, etc. that are the actual physical impacts, not the mere consumption of energy, per se. Appendix F should not be used as a surrogate for analysis of GHG emissions.

We have attached a revised version of Appendix F for your consideration that focuses on energy issues.

Appendix G:

A new box for Greenhouse Gas Emissions should be added under "Environmental Factors Potentially Affected."

The new introductory note in Appendix G is a good reminder to agencies that tend to overlook the similar advice under the "Evaluation of Environmental Impacts" discussion. However, we'd recommend saying "Lead agencies are advised" rather than "cautioned." In the spirit of putting essential concerns into this introduction, we also suggest mentioning here that the issue of cumulative impacts must be considered under each topic. Here's our suggested language:

> …do not necessarily represent thresholds of significance. Keep in mind when using the sample form that you should consider both the direct and reasonably foreseeable indirect impacts of the project, as well as the project's potential to contribute to cumulative impacts.

Under Section II AGRICULTURAL RESOURCES, we think that adding forest resources to the checklist is a good idea. The addition to subdivision (e) would be redundant if the suggested language is added to the introductory note.

Under new Topic VII, subdivision (a) characterizes GHG generation as "either directly or indirectly." Impacts are always considered direct or indirect, so the phrase doesn't add anything to the statement. If the intent is to encourage lifecycle analysis, which to some extent we support, then the wording should be clarified on that point. Perhaps the section could read as follows:

> a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment considering "cradle to grave" lifecycle

> emissions when reasonable and not speculative , based on any applicable threshold of significance?

In line with the comments about impacts to projects above, we suggest adding a third consideration under this topic. Recommended language:

> c) Suffer adverse impacts as a result of environmental changes result from global climate change (i.e., sea level rise, change in supply, change in weather) where such environmental changes are reasonably foreseeable.

The revisions to Section XVI TRANSPORTATION/TRAFFIC of the environmental checklist are radical, but a welcome change in our opinion. This rejects the current assumption that we can somehow build our way out of congestion. Instead, it shifts the focus to reducing VMT, which is important both to the reduction of GHG emissions and to smart growth principles. It also reduces the parking bias that is a key factor in promoting driving (by providing abundant parking) and that results in sterile parking lots that both detract from the cohesiveness of the urban fabric and contribute to the heat island effect. The current checklist is biased against worthy infill projects in favor of development where traffic is low, which often means development at densities too low to be served by transit. This change removes that bias. The changes to the guidelines will not impair the ability of local and regional agencies to prepare traffic nexus impact studies in order to develop appropriate fee mechanism to continue to fund necessary roadway, transit, bicycle, and pedestrian facilities, but will avoid the perverse incentives supported in the current CEQA Guidelines to default to building roadway capacity to address CEQA identified significant impacts. We suggest that the guidelines note that local land use agencies will still retain the authority to condition development to provide for transit and transportation impact fees with the proposed Guideline changes under their "police power." In addition, we suggest that the guidelines include additional questions to determine whether a project would adversely affect public transit service, availability, and usage, as increased transit usage, more efficient transit operations, and increased transit efficiency will help to play a key roll in meeting AB 32 targets.

Thank you again for the opportunity to share our comments with you. We hope that they will be useful in refining the proposed amendment to the State CEQA Guidelines.

Sincerely,

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Tony Held, Ph.D., P.E.
ICF Jones & Stokes Director of Climate Change Studies

Antero Rivasplata, AICP
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Project Director]

Attachment.

Comments on the Preliminary Draft CEQA Guidelines Amendments for Greenhouse Gas Emissions

Appendix F
ENERGY CONSERVATION

I. Introduction
The goal of conserving energy implies the wise and efficient use of energy. The means of achieving this goal include:

(1) decreasing overall per capita energy consumption,
(2) ~~decreasing reliance on natural gas and oil, and~~
~~(3)~~ increasing reliance on renewable energy sources, such as wind, solar, and geothermal power, and ~~.~~
(3) decreasing reliance on fossil fuels

Conserving energy can contribute to the overall reduction of environmental impacts such as air pollution, water pollution, inefficient land uses and the emission of greenhouse gases among others.

In order to assure that energy implications are considered in project decisions, the California Environmental Quality Act requires that EIRs include a discussion of the potential energy impacts of proposed large projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy (see Public Resources Code section 21100(b)(3)).~~Energy conservation implies that a project's cost effectiveness be reviewed not only in dollars, but also in terms of energy requirements. For many projects, lifetime costs may be determined more by energy efficiency than by initial dollar costs.~~ The state of California is a national leader in energy conservation. Title 24 building code energy efficiency requirements, regulations requiring utilities to supply renewable energy, and vehicle emissions standards (to the extent they have indirectly increased vehicle fuel efficiency) have enabled California to achieve a level of per capita energy use that is the fourth lowest in the nation. In view of this, vehicles that are legal under both CA and federal regulations and buildings that are built to meet current Title 24 codes are to be considered as standard users of energy and neither "wasteful," "inefficient," nor "unnecessary."

Standard energy efficiency provides sufficient energy conservation for smaller and routine projects. Large projects, particularly those that amend adopted general plans or that will result in large residential, commercial or industrial developments, may offer opportunities for additional energy conservation through design and operations. Therefore, Appendix F is intended to apply only to projects of statewide, regional, and areawide significance, as defined in Section 15206.

II. EIR Contents
Potentially significant energy implications of a project ~~should~~ shall be considered in an EIR to the extent relevant and applicable to the project. The following list of energy impact possibilities and potential conservation measures is designed to assist in the

preparation of an EIR. In many instances, specific items may not apply or additional items may be needed. Where items listed below are applicable or relevant to the project, they should be considered in the EIR.

A. Project Description may include the following items:

1. Energy consuming construction activities and equipment
2. Energy consuming ~~equipment and~~ processes ~~which~~that will be used during ~~construction,~~ operation~~, and/or removal~~ of the project. ~~If appropriate, this discussion should consider the energy intensiveness of materials and equipment required for the project.~~
~~2. Total energy requirements of the project by fuel type and end use.~~
~~3.~~Energy conservation equipment and design features.
~~4. Initial and life-cycle energy costs or supplies.~~
~~5.~~ 3. Total estimated daily trips to be generated by the project and the additional energy consumed per trip by mode.

B. Environmental Setting may include existing energy supplies and energy use patterns in the region and locality.

C. Environmental Impacts may include:

1. ~~The project's energy requirements and its energy use efficiencies by amount and fuel type for each stage of the project's life cycle including construction, operation, maintenance and/or removal. If appropriate, the energy intensiveness of materials may be discussed.~~
~~2.~~The effects of the project on local and regional energy supplies and on requirements for additional capacity.
~~3.~~2. The effects of the project on peak and base period demands for electricity and other forms of energy.
~~4. The degree to which the project complies with existing energy standards.~~
~~5.~~3. ~~The effects of the project on energy resources.~~
~~6.~~The project's projected ~~transportation~~vehicular energy use requirements and its overall use of ~~efficient transportation alternatives~~transit, bicycle, pedestrian, and other transportation modes.

D. Mitigation Measures may include:

1. Potential measures to reduce ~~wasteful, inefficient and unnecessary~~ consumption of energy during construction, operation, maintenance and/or removal. ~~The discussion should explain why certain measures were incorporated in the project and why other measures were dismissed.~~
2. ~~The potential of siting, orientation, and~~Revisions in design to minimize energy consumption, including transportation energy and ~~.~~

~~3. The potential for~~ reducing peak energy demand.
~~4.~~3. Alternate energy systems ~~fuels~~ (particularly renewable ones) ~~or energy systems~~.
~~5. Energy conservation which could result from recycling efforts~~

E. Alternatives should be compared in terms of overall energy consumption ~~and in terms of reducing wasteful, inefficient and unnecessary consumption of energy~~.

F. Unavoidable Adverse Effects may include ~~wasteful, inefficient and unnecessary~~ consumption of energy during the project construction, operation, maintenance and/or removal that cannot be feasibly mitigated.

G. Irreversible Commitment of Resources may include a discussion of how the project may preempt~~s~~ future energy development or future energy conservation.

H. Short-Term Gains versus Long-Term Impacts can be compared by calculating the energy costs over the lifetime of the project.

I. Growth Inducing Effects may include the ~~estimated energy consumption of~~ growth induced by the extension of utilities to the project.